

108TH CONGRESS  
2D SESSION

# S. 2954

To authorize the exchange of certain land in Grand and Uintah Counties,  
Utah, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 8, 2004

Mr. BENNETT (for himself and Mr. HATCH) introduced the following bill;  
which was read twice and referred to the Committee on Energy and Nat-  
ural Resources

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## A BILL

To authorize the exchange of certain land in Grand and  
Uintah Counties, Utah, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Utah Recreational  
5       Land Exchange Act of 2004”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—Congress finds that—

8               (1) the area surrounding the Colorado River in  
9       Grand County, Utah, and Dinosaur National Monu-  
10      ment and the Book Cliffs in Uintah County, Utah,

1 contains nationally recognized scenic values, signifi-  
2 cant archaeological and historic resources, valuable  
3 wildlife habitat, and outstanding opportunities for  
4 public recreation that are enjoyed by hundreds of  
5 thousands of people annually;

6 (2) the State of Utah owns multiple parcels of  
7 land in the area that were granted to the State  
8 under the Act of July 16, 1894 (28 Stat. 107, chap-  
9 ter 138), to be held in trust for the benefit of the  
10 public school system and other public institutions of  
11 the State;

12 (3) the parcels of State trust land are largely  
13 scattered in checkerboard fashion amid the Federal  
14 land comprising the area of the Colorado River cor-  
15 ridor, the Dinosaur National Monument, and the  
16 Book Cliffs;

17 (4) the State trust land in the area of the Colo-  
18 rado River corridor, Dinosaur National monument,  
19 and the Book Cliffs contains significant natural and  
20 recreational values, including—

21 (A) portions of Westwater Canyon of the  
22 Colorado River;

23 (B) the nationally recognized Kokopelli  
24 and Slickrock trails;

1 (C) several of the largest natural rock  
2 arches in the United States;

3 (D) multiple wilderness study areas and  
4 proposed wilderness areas; and

5 (E) viewsheds for Arches National Park  
6 and Dinosaur National Monument;

7 (5) the large presence of State trust land lo-  
8 cated in the Colorado River corridor, Dinosaur Na-  
9 tional Monument, and the Book Cliffs area makes  
10 land and resource management in the area more dif-  
11 ficult, costly, and controversial for the United States  
12 and the State of Utah;

13 (6) although the State trust land was granted  
14 to the State to generate financial support for public  
15 schools in the State through the sale or development  
16 of natural resources, development of those resources  
17 in the Colorado River corridor, Dinosaur National  
18 Monument, and the Book Cliffs area would be in-  
19 compatible with managing the area for recreational,  
20 natural, and scenic values;

21 (7) the United States owns land and interests  
22 in land in other parts of the State of Utah that can  
23 be transferred to the State in exchange for the State  
24 trust land without jeopardizing Federal management  
25 objectives or needs; and

1           (8) it is in the public interest to exchange feder-  
 2           ally-owned land in the State for the Utah State trust  
 3           land located in the Colorado River Corridor, Dino-  
 4           saur National Monument, and the Book Cliffs area,  
 5           on terms that are fair to the United States and the  
 6           State of Utah.

7           (b) PURPOSE.—It is the purpose of this Act to au-  
 8           thorize, facilitate, and expedite the exchange of certain  
 9           Federal land and non-Federal land in the State to further  
 10          the public interest by—

11           (1) exchanging Federal land that has limited  
 12           recreational and conservation values; and

13           (2) acquiring State trust land with important  
 14           recreational, scenic, and conservation values for per-  
 15           manent public management and use.

16 **SEC. 3. DEFINITIONS.**

17          In this Act:

18           (1) FEDERAL LAND.—The term “Federal land”  
 19           means the approximately \_\_\_\_\_ acres of Federal  
 20           land located in Grand and Uintah Counties, Utah,  
 21           as generally depicted on the map.

22           (2) MAP.—The term “map” means the map en-  
 23           titled “Utah Recreational Land Exchange-Offered  
 24           Lands” and dated October 2004.

1           (3) NON-FEDERAL LAND.—The term “non-Fed-  
2       eral land” means—

3           (A) the approximately \_\_\_\_\_ acres of  
4       State trust located in the Colorado River cor-  
5       ridor in Grand County, Utah, as generally de-  
6       picted on the map;

7           (B) the approximately \_\_\_\_\_ acres of  
8       State trust land located in the vicinity of Dino-  
9       saur National Monument in Uintah County,  
10      Utah, as generally depicted on the map; and

11          (C) the approximately \_\_\_\_\_ acres of  
12      State trust land located in the vicinity of the  
13      Book Cliffs area in Uintah County, Utah, as  
14      generally depicted on the map.

15          (4) SECRETARY.—The term “Secretary” means  
16      the Secretary of the Interior.

17          (5) STATE.—The term “State” means the State  
18      of Utah.

19   **SEC. 4. EXCHANGE OF LAND.**

20          (a) IN GENERAL.—If, not later than 30 days after  
21      the date of enactment of this Act, the State offers to con-  
22      vey to the United States title to the non-Federal land that  
23      is acceptable to the Secretary, the Secretary shall—

24          (1) accept the offer; and

1           (2) on receipt of acceptable title to the non-  
 2       Federal land and subject to valid existing rights, si-  
 3       multaneously convey to the State all right, title, and  
 4       interest of the United States in and to the Federal  
 5       land.

6       (b) TIMING.—

7           (1) IN GENERAL.—Except as provided in para-  
 8       graph (2), the exchange of land authorized by sub-  
 9       section (a) shall be completed not later than 330  
 10      days after the date on which the State makes the  
 11      Secretary an offer to convey the non-Federal land  
 12      under that subsection.

13          (2) EXTENSION.—The Secretary and the State  
 14      may agree to extend the deadline specified in para-  
 15      graph (1).

16   **SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALI-**  
 17                                   **ZATION.**

18          (a) EQUAL VALUE EXCHANGE.—The value of the  
 19      Federal land and non-Federal land to be exchanged under  
 20      this Act—

21           (1) shall be approximately equal; or

22           (2) shall be made approximately equal in ac-  
 23      cordance with subsection (c).

24          (b) APPRAISALS.—

1           (1) IN GENERAL.—The value of the Federal  
2       land and the non-Federal land shall be determined  
3       by appraisals conducted—

4           (A) using comparable sales of surface and  
5       subsurface property; and

6           (B) in accordance with—

7           (i) the Uniform Appraisal Standards  
8       for Federal Land Acquisitions (1992);

9           (ii) the Uniform Standards of Profes-  
10      sional Appraisal Practice; and

11          (iii) section 206(d) of the Federal  
12      Land Policy and Management Act of 1976  
13      (43 U.S.C. 1716(d)).

14       (2) SELECTION OF APPRAISER.—

15           (A) IN GENERAL.—The appraisals of the  
16      Federal land and non-Federal land shall be con-  
17      ducted by 1 or more independent third-party  
18      appraisers selected by the Secretary and the  
19      State from a list of appraisers approved by the  
20      Secretary and the State under subparagraph  
21      (B).

22           (B) APPROVAL OF LIST OF APPRAISERS.—  
23      Not later than 30 days after the date on which  
24      the State offers to convey the non-Federal land  
25      to the Secretary, the Secretary and the State

1 shall approve the list of appraisers referred to  
 2 in subparagraph (A).

3 (3) REQUIREMENTS.—During the appraisal  
 4 process, the appraiser shall—

5 (A) consider comparable public and private  
 6 sales without regard to—

7 (i) whether the land was acquired for  
 8 conservation or preservation purposes; or

9 (ii) the governmental or nonprofit sta-  
 10 tus of the entity making the acquisition;  
 11 and

12 (B) if value is attributed to the land be-  
 13 cause of the presence of minerals subject to  
 14 leasing under Federal mineral leasing laws, ad-  
 15 just the value proportionately to reflect Federal  
 16 mineral revenue sharing, subject to the condi-  
 17 tion that the Utah School and Institutional  
 18 Trust Lands Administration assume the rev-  
 19 enue sharing obligation of the United States  
 20 with respect to the land.

21 (4) REVIEW AND APPROVAL.—

22 (A) IN GENERAL.—Not later than 120  
 23 days after the date on which the appraiser is  
 24 selected under paragraph (2), the appraiser

1 shall submit to the Secretary and the State a  
2 copy of the completed appraisals for review.

3 (B) APPROVAL OR DISAPPROVAL.—Not  
4 later than 90 days after the date of receipt of  
5 an appraisal under subparagraph (A), the Sec-  
6 retary and the State shall independently ap-  
7 prove or disapprove the appraisal.

8 (5) DETERMINATION OF VALUE.—

9 (A) DETERMINATION BY SECRETARY AND  
10 STATE.—If the Secretary and the State are un-  
11 able to agree on the value of a parcel of land,  
12 the value of the parcel may be determined by  
13 the Secretary and the State in accordance with  
14 paragraphs (2) and (4) of section 206(d) of the  
15 Federal Land Policy and Management Act of  
16 1976 (43 U.S.C. 1716(d)).

17 (B) DETERMINATION BY COURT.—

18 (i) IN GENERAL.—Notwithstanding  
19 any other provision of law, if the Secretary  
20 and the State have not agreed on the value  
21 of a parcel by the date that is 1 year after  
22 the date of enactment of this Act, a Fed-  
23 eral district court (including the United  
24 States District Court for the District of

1 Utah, Central Division) shall have jurisdic-  
2 tion to determine the value of the parcel.

3 (ii) LIMITATION.—An action to deter-  
4 mine the value of a parcel under clause (i)  
5 shall be brought not earlier than 1 year,  
6 but not more than 3 years, after the date  
7 of enactment of this Act.

8 (c) EQUALIZATION OF VALUES.—

9 (1) SURPLUS OF NON-FEDERAL LAND.—If after  
10 completion of the appraisal and dispute resolution  
11 process under subsection (b), the final appraised  
12 value of the non-Federal land exceeds the final ap-  
13 praised value of the Federal land, the Secretary  
14 shall remove parcels of non-Federal land from the  
15 exchange until the value of the Federal land and  
16 non-Federal land is approximately equal.

17 (2) SURPLUS OF FEDERAL LAND.—If after  
18 completion of the appraisal and dispute resolution  
19 process under subsection (b), the final appraised  
20 value of the Federal land exceeds the final appraised  
21 value of the non-Federal land, the value of the Fed-  
22 eral land and non-Federal land may be equalized  
23 by—

1 (A) the Secretary and the State removing  
 2 parcels of Federal land from the exchange until  
 3 the value is approximately equal; or

4 (B) the Secretary and the State adding ad-  
 5 ditional State trust land to the non-Federal  
 6 land, if—

7 (i) the additional land has been ap-  
 8 praised in accordance with an ongoing  
 9 Federal acquisition process or program;  
 10 and

11 (ii) the appraised value (as deter-  
 12 mined under clause (i)) has been accepted  
 13 by the Secretary.

14 **SEC. 6. STATUS AND MANAGEMENT OF LAND AFTER EX-**  
 15 **CHANGE.**

16 (a) ADMINISTRATION OF NON-FEDERAL LAND.—

17 (1) IN GENERAL.—Subject to paragraph (2)  
 18 and in accordance with section 206(c) of the Federal  
 19 Land Policy and Management Act of 1976 (43  
 20 U.S.C. 1716(c)), the non-Federal acquired by the  
 21 United States under this Act shall become part of,  
 22 and be managed as part of, the Federal administra-  
 23 tive unit or area in which the land is located.

24 (2) LIMITATION.—The payment of mineral rev-  
 25 enues from the non-Federal land acquired under this

1 Act shall be subject to section 35 of the Mineral  
2 Leasing Act (30 U.S.C. 191).

3 (b) WITHDRAWAL OF FEDERAL LAND.—Subject to  
4 valid existing rights, the Federal land is withdrawn  
5 from—

6 (1) disposition under the public land laws;

7 (2) location, entry, and patent under the mining  
8 laws; and

9 (3) the operation of—

10 (A) the mineral leasing laws;

11 (B) the Geothermal Steam Act of 1970  
12 (30 U.S.C. 1001 et seq.); and

13 (C) the first section of the Act of July 31,  
14 1947 (commonly known as the “Materials Act  
15 of 1947”) (30 U.S.C. 601).

16 (c) GRAZING PERMITS.—

17 (1) IN GENERAL.—If land acquired under this  
18 Act is subject to a lease, permit, or contract for the  
19 grazing of domestic livestock in effect on the date of  
20 acquisition, the person acquiring the land shall allow  
21 the grazing to continue for the remainder of the  
22 term of the lease, permit, or contract, subject to the  
23 related terms and conditions of user agreements, in-  
24 cluding permitted stocking rates, grazing fee levels,

1 access rights, and ownership and use of range im-  
2 provements.

3 (2) RENEWAL.—To the extent allowed by Fed-  
4 eral or State law, on expiration of any grazing lease,  
5 permit, or contract described in paragraph (1), the  
6 holder of the lease, permit, or contract shall be enti-  
7 tled to a preference right to renew the lease, permit,  
8 or contract.

9 (3) CANCELLATION.—Nothing in this Act pre-  
10 vents the State from canceling a grazing permit,  
11 lease, or contract if the land subject to the permit,  
12 lease, or contract is sold, conveyed, transferred, or  
13 leased for non-grazing purposes by the State.

14 (4) BASE PROPERTIES.—If land conveyed by  
15 the State under this Act is used by a grazing per-  
16 mittee or lessee to meet the base property require-  
17 ments for a Federal grazing permit or lease, the  
18 land shall continue to qualify as a base property for  
19 the remaining term of the lease or permit and the  
20 term of any renewal or extension of the lease or per-  
21 mit.

22 (d) HAZARDOUS MATERIALS.—

23 (1) IN GENERAL.—The Secretary and, as a con-  
24 dition of the exchange, the State shall make avail-  
25 able for review and inspection any record relating to

1 hazardous materials on the land to be exchanged  
2 under this Act.

3 (2) COSTS.—The costs of remedial actions re-  
4 lating to hazardous materials on land acquired  
5 under this Act shall be paid by those entities respon-  
6 sible for the costs under applicable law.

7 (e) PROVISIONS RELATING TO FEDERAL LAND.—  
8 The exchange of land under this Act shall be considered  
9 to be in the public interest under section 206(a) of the  
10 Federal Land Policy and Management Act of 1976 (43  
11 U.S.C. 1716(a)).

